

**CITY OF EL PASO, TEXAS**  
**AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM**

**DEPARTMENT:** Engineering

**AGENDA DATE:** April 26, 2005

**CONTACT PERSON/PHONE:** Irene Ramirez, P.E. Ext: 4431

**DISTRICT(S) AFFECTED:** 8

**SUBJECT:**

That the City Manager is hereby authorized to sign a letter of agreement, and any related documentation, with the El Paso Electric Company to provide for service to the Plaza Theatre, 125 Pioneer Plaza, El Paso, El Paso County, Texas. Said electrical service shall consist of an underground system consisting of a 277/480 volt. Three phase, four wire. Three 1500 KVA transformers will be installed to service the electrical load.

**BACKGROUND / DISCUSSION:**

El Paso Electric Company will provide electrical service to the Plaza Theatre.

**PRIOR COUNCIL ACTION:**

No prior item has been submitted to City Council.

**AMOUNT AND SOURCE OF FUNDING:**


N/A

**BOARD / COMMISSION ACTION:**

N/A

**\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\***

**LEGAL:** (if required) \_\_\_\_\_ **FINANCE:** (if required) \_\_\_\_\_

**DEPARTMENT HEAD:**  \_\_\_\_\_  
(Example: *If RCA is initiated by Purchasing, client department should sign also*)  
*Information copy to appropriate Deputy City Manager*

**APPROVED FOR AGENDA:**

**CITY MANAGER:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

## RESOLUTION

### BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager is hereby authorized to sign a Letter of Agreement, and any related documentation, with the El Paso Electric Company to provide for service to the Plaza Theatre, 125 Pioneer Plaza, El Paso, El Paso County, Texas. Said electrical service shall consist of an underground system consisting of a 277/480 volt, three phase, four wire. Three 1500 KVA transformers will be installed to service the electrical load.

ADOPTED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2005.


THE CITY OF EL PASO:

\_\_\_\_\_  
Joe Wardy, Mayor

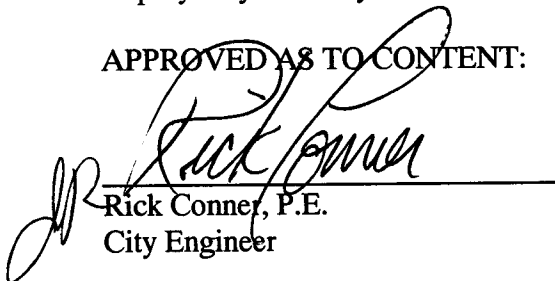
ATTEST:

\_\_\_\_\_  
Richarda Duffy Momsen, City Clerk


APPROVED AS TO FORM:

  
\_\_\_\_\_  
Theresa Cullen-Garney  
Deputy City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Rick Conner, P.E.  
City Engineer

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
ECM International, Inc.  
Project Manager



P.O. Box 982  
El Paso, Texas  
79960-0982  
(915) 543-5711

February 21, 2005

Ms. Theresa Cullen-Garney  
2 Civic Center Plaza,  
El Paso, Texas 79901

Dear Ms. Theresa Garney:

**UNDERGROUND THREE PHASE ELECTRIC SERVICE TO PROPOSED  
PLAZA THEATRE, LOCATED AT 125 PIONEER PLAZA, EL PASO, TEXAS.**

This Letter of Agreement (Agreement) summarizes the terms under which El Paso Electric Company agrees to provide the extension of electric service to the above-named location by way of an underground distribution system, hereinafter the "Underground System."

**I. Parties and Term**

In consideration of the promises hereinafter contained and other good and valuable consideration, this Agreement is entered into by and between El Paso Electric Company, hereinafter called the "Company," and **City of El Paso**, hereinafter called the "Customer," conjunctively known as the "Parties."

**II. Location**

The Customer has requested the Company to install an Underground System to provide electric service to the location(s) as shown on the attached Company drawing marked **Exhibit "A"** and incorporated herein the same as if fully set out herein.

This Agreement covers only the area and Company facilities shown on the Company drawing. Any future extension of service to additional buildings or property not reflected in **Exhibit "A"** attached hereto will be negotiated by a separate agreement.

### III. Type of Service

1. The Company will do the trenching, bedding and backfilling; provide, install, own and maintain the high voltage duct system, manhole(s), high voltage cables, and transformer(s) and its related equipment. The Customer will provide, install, own and maintain all bus ducts and low voltage cables from the secondary mole bus vault to and within the building. The secondary bus duct penetration shall be owned and installed by the customer. The secondary mole bus(es) can accommodate a maximum of **fourteen (14) conductors per phase**. The secondary conductors installed by the Customer shall have sufficient length to reach the secondary mole bus(s) without splices as shown on the attached Company Drawing marked **Exhibit "B"** and incorporated herein the same as if fully set out herein. The Customer shall construct an electrical vault for ownership by the Company as specified in **Exhibit A**, Plaza Theatre Vault – Structural Details. The Customer shall be responsible for the structural integrity of the electrical vault and shall hold the company harmless from structural failure of this facility.

The Underground System for this project as covered in this Agreement will be **277/480** volt, **three** phase, **four** wire. Three **1500 KVA** network transformers will be installed to serve the Customer's electrical load.

2. In the event that paving, curbs, gutters, driveways, sidewalks or other permanent obstacles to trenching are installed in or across the Company's right-of-way or easement before the installation of the Underground System, the cost of repair for the repaving, repair or replacement of the damaged curbs, gutters, sidewalks, driveways or paving caused by the construction of the Underground System by the Company and Company's contractor shall be borne by the Customer.
3. All areas where the Company's Underground System and related facilities are to be installed shall be to final grade prior to the start of the work by Company's contractor.
4. The Customer agrees to pay the cost of (1) relocation or extension, or both, as the case may be, of any installed electrical distribution facilities, whether underground or overhead, due to grade changes, replat, or to meet other requirements of the Customer, builder, or lot owner, and (2) repair or replacement, or both, as the case may be, of any Company facilities covered in this Agreement should such facilities be damaged during land development or building construction, or both, as the case may be unless or until such time that this financial responsibility is transferred to another party under terms included in a written contract; provided, however, that this transfer of responsibility

shall not release the Customer from the obligation of paying for relocation, extension, repair or replacement as stated above if the need for such an action is shown to have been caused by the Customer or its agents, even though discovery of the cause comes after a transfer of financial responsibility.

5. The Customer shall prohibit the building of permanent structures on or over the Underground System and shall relieve the Company from any liability for damages to curbs, gutters, paving, shrubbery or other items of landscaping due to the existence, operation, maintenance, service, repair, replacement or removal of Company facilities.
6. The Underground System will not be energized until all construction of electric facilities has been completed and appropriate inspections have been made to insure safe and reliable operation.
7. The Customer's electrical contractor shall contact the Company's Custom Planner for the necessary metering information and confirmation of the point of service.

#### **IV. Other Conditions**

1. Installation of the Underground System is subject to the Company securing firm easements and rights of way by dedication or at the nominal cost of one dollar (\$1.00). It is understood that the Customer will need to provide all necessary property irons or acceptable markings so that the Underground System and related facilities can be properly located in the easements.
2. The Customer shall meet all other rules, requirements, policies, codes, standard procedures and regulations as set forth and practiced by the Company.
3. **Mr. Joe Najera**, Company Underground Construction Inspector, phone **543-4147**, will act as the representative for the Company in coordination, inspection and other liaison work during the field construction of the Underground System and related facilities. This Inspector and the Customer's designated representative shall be responsible for coordinating work in the field. If they cannot reach agreement on any item under discussion, the matter shall be referred to a designated Principal of the Customer and the Company's Distribution Design and Delivery Business Unit Team Leader for amicable and mutually satisfactory settlement.
4. In the event any term or provision of this Agreement is found to be invalid or unenforceable, such findings shall not affect the validity or enforceability of the remainder of this Agreement unless the affected portion is determined by the Company to be material to this Agreement, in which event such findings shall terminate the entire Agreement. No waiver by the Company of any term

or condition of this Agreement or any breach thereof shall be construed as a waiver of any other term or subsequent breach of that or any other term or condition hereof.

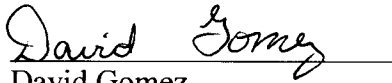
5. To the extent allowed by state law, the Customer agrees to indemnify and save Company, its directors, officers, agents, representatives, employees, contractors or subcontractors from such liability, loss, cost or expense, including, but not limited to, attorney's fees, resulting from any injury to persons (including death) or damages or destruction of property resulting from the acts or omissions of the Customer, its agents, representatives, employees, contractors or subcontractors associated with Customer's presence on the premises of the subdivision development except to the extent such liability, loss, cost or expense is attributable to the negligence of Company, its directors, officers, agents, representatives, employees, contractors or subcontractors.

Should any person make a claim or institute suit for any damage to property or injury to persons (including death at any time resulting therefrom) as a result of the acts or omissions of the Customer, its agents, representatives, employees, contractors or subcontractors associated with Customer's presence on the premises of the subdivision development except to the proportional extent such claim or suit has its basis in the negligence of Company, its directors, officers, agents, representatives, employees, contractors, or subcontractors, the Customer agrees to assume the defense of any action at law or in equity which may be brought against Customer, Company, the directors, officers, agents, representatives, employees, contractors or subcontractors of same, and to pay all costs, expenses (to include attorney's fees and indirect or consequential damages) and judgments that may be rendered in any such claim or suit.

6. This Agreement shall be available for execution only for sixty (60) days from the date of this Agreement. After sixty days, the Company reserves the right to renegotiate the terms stated herein.
7. This Agreement is not assignable by the Customer without the Company's prior written approval. This Agreement shall be binding upon the parties hereto and their respective heirs, legal representatives, successors and assigns. This Agreement is not to be considered as a precedent or course of dealing to which the parties will be bound in the future.
8. The Principal Planner in charge of this project is **Mr. David Gomez**, phone 915/543-4141.

9. Please sign and return all three(3) copies of this Agreement.

Sincerely,

A handwritten signature in cursive script that reads "David Gomez". The signature is written in black ink and is positioned above a horizontal line.

David Gomez

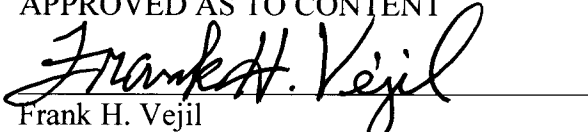
Principal Planner

Distribution Design and Delivery Business Unit

915/543-4141

915/543-4396 fax

APPROVED AS TO CONTENT

A handwritten signature in cursive script that reads "Frank H. Vejil". The signature is written in black ink and is positioned above a horizontal line.

Frank H. Vejil


Supervisor, Distribution Design and Delivery

THE CITY OF EL PASO:

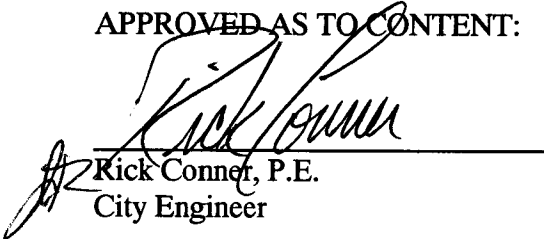
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Joyce A. Wilson  
City Manager

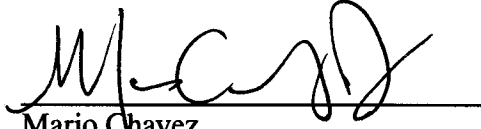
APPROVED AS TO FORM:

  
Theresa Cullen-Garney  
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Rick Conner, P.E.  
City Engineer

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Mario Chavez  
ECM International, Inc.  
Project Manager